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July 27, 2007

DEPARTMENT OF ENERGY
OFFICE OF HEARINGS AND APPEALS

Hearing Officer's Decision

Name of Case: Personnel Security Hearing

Date of Filing: March 12, 2007

Case Number: TSO-0477

This Decision considers the eligibility of XXXXXXXX XXXXXXXX (hereinafter referred to as "the individual") to hold an access authorization under the regulations set forth at 10 C.F.R. Part 710, entitled "Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material." As explained below, it is my decision that the individual's access authorization should be restored.

I. BACKGROUND

The individual is an employee of a Department of Energy (DOE) contractor, and was granted a DOE access authorization in 1987. In April 1993 and again in March 1997, the individual was evaluated by a DOE-consultant psychiatrist. Following his 1997 evaluation, the DOE-consultant psychiatrist concluded that the individual was suffering from Alcohol Abuse, in reported remission.

In January 2007, the Manager for Personnel Security of the DOE area office where the individual is employed (the Manager) issued a Notification Letter to the individual. In this letter, the Manager states that the individual's behavior has raised security concerns under Sections 710.8 (j) [Criterion (j)] of the regulations governing eligibility for access to classified material. 1/ In addition to the DOE-consultant psychiatrist's 1997 finding, the

1/ Criterion (j) concerns information that a person has been, or is "a user of alcohol habitually to excess, or has been diagnosed by a psychiatrist or a licensed clinical psychologist as alcohol dependent or as suffering from alcohol abuse." 10 C.F.R. § 710.8(j).

Notification Letter also refers to the following alcohol related events or incidents involving the individual:

(1) on August 5, 2006, the individual was arrested and charged with Driving Under the Influence (DUI) and Hit and Run. His breath alcohol content (BAC) registered .23;

(2) in February 1995, he was arrested and charged with Driving While Intoxicated (DWI);

(3) in May 1992, he was arrested and charged with Disorderly Conduct/Drunk in Public;

(4) on January 18, 1991, he was arrested and charged with DWI, and his BAC registered .18;

(5) in July 1988, he was arrested for Disorderly Conduct/Public Disturbance. He admitted to consuming alcohol before the arrest;

(6) on February 11, 1984, he was arrested and charged with DWI;

(7) on April 13, 1980, he was cited for having an open container of alcohol in his car;

(8) on March 6, 1980, he was arrested and charged with DWI;

(9) on October 21, 1979, he was arrested and charged with DWI. His BAC registered .20; and

(10) in May 1978 he was charged with evading arrest. He admitted to consuming alcohol prior to being charged.

See Enclosure 2 accompanying Notification Letter, Information Creating a Substantial Doubt Regarding Eligibility for Access Authorization.

The Operations Office also finds that the individual completed two court-required 18-month Driving Under the Influence programs. In November 2000, he completed the DOE Employee Assistance Program Referral Option and the Recovery Assistance Program at the DOE

facility where he is employed. Despite the completion of these programs, he resumed drinking. *Id.*

Finally, the Operations Office refers to the following information concerning the individual's alcohol use:

(1) from early to mid 2005 until August 2006, the individual's use of alcohol increased from a 750 milliliter bottle of rum every two weeks to five liters of rum per month; and

(2) the individual admits that he has had problems with alcohol since 1993, that his wife, mother and father have expressed concerns about his alcohol consumption, and that his numerous DWIs have negatively impacted his life financially, physically, and psychologically.

Id.

The individual requested a hearing (hereinafter "the Hearing") to respond to the concerns raised in the Notification Letter, and the Hearing was convened in June 2007. At the Hearing, the individual did not contest the DOE-consultant psychiatrist's 1997 diagnosis of alcohol abuse, or the Notification Letter's findings that he consumed alcohol to intoxication in 2006 and was most recently arrested for DUI on August 5, 2006. The testimony at the Hearing focused on information indicating that the individual has been abstinent since August 6, 2006, and has been actively involved in recovery activities.

II. REGULATORY STANDARD

In order to frame my analysis, I believe that it will be useful to discuss briefly the respective requirements imposed by 10 C.F.R. Part 710 upon the individual and the Hearing Officer. As discussed below, Part 710 clearly places upon the individual the responsibility to bring forth persuasive evidence concerning his eligibility for access authorization, and requires the Hearing Officer to base all findings relevant to this eligibility upon a convincing level of evidence. 10 C.F.R. §§ 710.21(b)(6) and 710.27(b),(c) and (d).

A. *The Individual's Burden of Proof*

It is important to bear in mind that a DOE administrative review proceeding under this Part is not a criminal matter, where the

government would have the burden of proving the defendant guilty beyond a reasonable doubt. The standard in this proceeding places the burden of proof on the individual. It is designed to protect national security interests. The hearing is "for the purpose of affording the individual an opportunity of supporting his eligibility for access authorization." 10 C.F.R. § 710.21(b)(6). The individual must come forward at the hearing with evidence to convince the DOE that restoring his access authorization "would not endanger the common defense and security and would be clearly consistent with the national interest." 10 C.F.R. § 710.27(d). *Personnel Security Review (Case No. VSA-0087)*, 26 DOE ¶ 83,001 (1996); *Personnel Security Hearing (Case No. VSO-0061)*, 25 DOE ¶ 82,791 (1996), *aff'd*, *Personnel Security Review (VSA-0061)*, 25 DOE ¶ 83,015 (1996). The individual therefore is afforded a full opportunity to present evidence supporting his eligibility for an access authorization. The regulations at Part 710 are drafted so as to permit the introduction of a very broad range of evidence at personnel security hearings. Even appropriate hearsay evidence may be admitted. 10 C.F.R. § 710.26(h). Thus, by regulation and through our own case law, an individual is afforded the utmost latitude in the presentation of evidence which could mitigate security concerns.

Nevertheless, the evidentiary burden for the individual is not an easy one to sustain. The regulatory standard implies that there is a presumption against granting or restoring a security clearance. See *Department of Navy v. Egan*, 484 U.S. 518, 531 (1988) ("clearly consistent with the national interest" standard for the granting of security clearances indicates "that security determinations should err, if they must, on the side of denials"); *Dorfmont v. Brown*, 913 F.2d 1399, 1403 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991) (strong presumption against the issuance of a security clearance). Consequently, it is necessary and appropriate to place the burden of persuasion on the individual in cases involving national security issues. In addition to his own testimony, we generally expect the individual in these cases to bring forward witness testimony and/or other evidence which, taken together, is sufficient to persuade the Hearing Officer that restoring access authorization is clearly consistent with the national interest. *Personnel Security Hearing (Case No. VSO-0002)*, 24 DOE ¶ 82,752 (1995); *Personnel Security Hearing (Case No. VSO-0038)*, 25 DOE ¶ 82,769 (1995) (individual failed to meet his burden of coming forward with evidence to show that he was rehabilitated and reformed from alcohol dependence).

B. Basis for the Hearing Officer's Decision

In personnel security cases under Part 710, it is my role as the Hearing Officer to issue a decision as to whether granting an access authorization would not endanger the common defense and security and would be clearly consistent with the national interest. 10 C.F.R. § 710.27(a). Part 710 generally provides that "[t]he decision as to access authorization is a comprehensive, common-sense judgment, made after consideration of all relevant information, favorable and unfavorable, as to whether the granting or continuation of access authorization will not endanger the common defense and security and is clearly consistent with the national interest." 10 C.F.R. § 710.7(a). I must examine the evidence in light of these requirements, and assess the credibility and demeanor of the witnesses who gave testimony at the hearing.

III. HEARING TESTIMONY

At the Hearing, testimony was received from nine persons. The DOE presented the testimony of the DOE-consultant psychiatrist who evaluated the individual in 1997. 2/ The individual, who was represented by counsel, testified and presented the testimony of a psychologist who conducted an evaluation of the individual in February 2007 (the individual's evaluating psychologist), and of a clinical psychologist who is employed by the individual's employer's Employee Assistance Program (the EAP psychologist). 3/ In addition, the individual presented the testimony of his wife, his father, his Alcoholics Anonymous (AA) sponsor, a friend who attends one of his AA groups, and his current supervisor.

2/ As indicated by the testimony of the DOE-consultant psychiatrist (TR at 17-18) and by his curriculum vitae, he clearly qualifies as an expert witness in the area of addiction psychiatry.

3/ As indicated by his testimony (TR at 189-190) and curriculum vitae (Individual's Hearing Exhibit 3) and by her testimony (TR at 15-16) and curriculum vitae (Individual's Hearing Exhibit 5), the individual's evaluating psychologist and the individual's EAP psychologist both qualify as expert witnesses in the area of clinical psychology.

A. *The Individual*

The individual testified that he has worked at the DOE facility since 1982 and has made an effort to develop his skills to do the most challenging work available there. TR at 144-146. He stated that

my release for the stress that I put myself under was to drink. I prided myself that if I was going to tie one on that I didn't go to work the next day, not because of that but because there was no work scheduled.

TR at 148. He stated that prior to 1995 he was arrested several times for DUI. In 1995 he was severely injured in an alcohol related motorcycle accident, and after that he was more careful not to drink and drive. TR at 152-154. However, he stated that he still did not consider himself to be an alcoholic, and that the court ordered education programs and mandatory attendance at AA did not convince him that he was an alcoholic. TR at 154-157. He testified that he stopped consuming alcohol for a few years and that this enabled him to successfully complete the DOE's Employee Assistance Program Referral Option in 2000.

I went to [EAPRO] and saw the counselor, the psychiatrist, or whatever the individual was at EAPRO. They tested me. I did fine - I graduated or whatever you wanted to call it, and I was fine - life did get better at that point, it truly did. I met my wife, we built a house together, life was going good.

TR at 158-159. He stated that sometime after 2000, he started drinking beer occasionally at social events and was soon consuming large amounts of alcohol to relieve stress.

[the drinking] just escalated from there as . . . anger just turned into resentment, things weren't going my way, they don't appreciate me, you get into the selfish and self-centeredness of the disease. Before I knew it, I was right back in the mix of things, and there is your progressive disease full blown.

TR at 159-160. He stated that in early August 2006, he visited his father, who confronted him about his problem with alcohol and urged him to go into rehab. On the way home from this visit, he began to feel angry that his father and his wife had arranged an intervention, and decided to stop at a bar and drink.

I got inebriated at the bar and decided to get behind the wheel of a vehicle. I hit a concrete embankment, a roundabout, and I think that was God's way of hitting me with six two-by-fours and saying, "Now, we're going to do this now."

TR at 162-163.

The individual stated that as soon as he was released from the police station, his wife helped him to check into a hospital for detoxification from alcohol, followed by an intensive outpatient program. TR at 166-167. Since September 2007, the individual and his wife have continued to attend weekly group after-care sessions. TR at 168, Individual's Hearing Exhibit 1. The individual stated that this chemical dependency outpatient program

explained a lot of the reasons why I thought the way I thought. It gave me basically tools in my toolbox to know that if something is coming up, whatever it may be, that I have something to use and hopefully be open-minded enough to look at what's actually going on with myself.

They used HALT - that's hungry, angry, lonely, tired - in the interim and in the outpatient part of it, which was three hours a day, four days a week for four weeks. They suggested that I go to AA.

TR at 168. The individual stated that he began attending an AA meeting that he could walk to, and found that the group was serious about sobriety. He quickly became motivated to study and accept the AA teachings. He stated that he attends AA meetings five times a week, in addition to the weekly after-care session. TR at 172-173. The individual testified that he has an AA sponsor who he calls once or twice a week and sees three or four times a week at the AA meetings. TR at 174.

The individual testified that when he returned to work in September 2006, he arranged to meet with an EAP psychologist once a month and to have random tests for drugs and alcohol. TR at 175-176. The individual stated that he plans to continue his monthly sessions with the EAP psychologist.

The individual stated that he last consumed alcohol at 10:00 p.m. on August 5, 2006, prior to his arrest for DUI, and that he intends to remain sober for the rest of his life with the support of AA.

I know that I'm the type of person that can never drink again; I firmly believe that if I do, I will die; that it is a disease and it destroys more than just yourself.

It's a very self-centered, selfish, self-soothing disease, but like any disease you have to take your medicine, and my medicine is AA.

I think if [you] don't go to AA, you lose your spirituality, you get back into self, and you will relapse.

TR at 178. The individual stated that his current friends are drawn from his AA associations, and that he and his wife keep no alcohol in their home. TR at 183. The individual was able to recite the 12 steps of AA at the Hearing, and testified that he currently is working on step 8. TR at 186-187.

B. *The Individual's Wife*

The individual's wife testified that she met the individual in 1993 and that they have been married for ten years. TR at 40-41. She stated that she first observed that the individual was drinking to excess in 2005. She stated that "he always drank at home, 99 percent of the time out in the garage." TR at 42. She stated that she confronted him about his drinking in the spring of 2006.

I had sat him down in the garage, and I . . . told him that I was seeing a pattern that alarmed me, and I asked him at that point - because I had been to Al-Anon - and so I asked him where his bottom was.

TR at 46. She stated that the individual answered that he was seriously considering going into a rehabilitation program but was worried that entering a program would cause problems with his employer. *Id.*

She stated that the individual called her from the police station after his DUI arrest on August 5, 2006 and asked her to help him get into a rehabilitation hospital. She helped him get into the hospital the next day. TR at 50-51. She stated that he spent four or five days in the rehabilitation hospital, and then entered an intensive outpatient program that lasted for 20 sessions.

He had to go in four days a week, and the fourth day, I went in as a family member.

TR at 53. She stated that she and the individual continue to attend outpatient after-care meetings every Monday evening. *Id.* She stated that "our life revolves around AA and Al-Anon right now." TR at 54.

She testified that her attendance at Al-Anon has helped her to appreciate that she used to enable the individual's drinking by buying his alcohol and keeping him company while he drank.

I was a big enabler, a big co-dependent, and I'm working on that. I try not to enable any more, obviously. This is his recovery.

TR at 57.

She stated that the individual's current recovery program is different from the past counseling that he received because

He's submitted himself completely to the care of his Higher Power, and in our case, it's God. He is completely involved in this program and realizes that there is no way that you can remain sober completely based upon willpower, you cannot. You have to work the program.

TR at 61. She stated that she believes that the individual is extremely committed to his sobriety and will continue to attend AA meetings frequently in the future. TR at 69.

The individual's wife testified that she has not observed the individual consume alcohol since his August 2006 DUI, and that she believes that August 6, 2006 is his sobriety date. TR at 55, 63. She stated that she would be able to tell if the individual had even one drink of alcohol, because they are always together in the evening and she is sensitive to the smell of alcohol. TR at 56. She stated that since August 5, 2005 "there has not been one drop of alcohol" in their home. TR at 55.

C. The Individual's Father

The individual's father testified that he spent his career at the DOE facility where the individual is employed. He stated that since his retirement in the early 1990's, he has lived two hours away by car from the individual. TR at 86, 95. He testified that for about two years prior to the individual's August 2006 DUI, the individual would periodically call him on the telephone in an intoxicated state to ask his advice about work related problems.

TR at 82-83. On August 5, 2006, the individual drove to his parents' home for lunch. The individual's father stated that at that meeting he confronted the individual about his drinking, and that the individual admitted that he had a problem with alcohol and intended to seek treatment. TR at 84-85, 92. Later, that evening, the individual's wife called and informed them that the individual had been arrested for DUI. TR at 85.

The individual's father stated that since the individual started his recovery program in August 2006, most of their conversations have centered around what he is doing to address his drinking problem. TR at 88. He testified that the individual's physical appearance has improved greatly since he stopped drinking, and that the individual is much calmer. TR at 87. He testified that he and his wife speak to the individual frequently on the telephone and see him at family gatherings, and that they have no suspicions that he has ever resumed drinking. TR at 97.

D. The Individual's AA Sponsor

The individual's AA sponsor testified that he is a long time member of AA with 25 years of sobriety. He stated that he first met the individual in August 2006, has been the individual's sponsor for several months, and that he sees the individual at "anywhere from three to four [AA] meetings a week." TR at 117-118, 139-140. The sponsor also stated that he hears from friends that the individual attends additional weekly meetings when the sponsor is not present. TR at 118. He stated that the individual is actively involved in the AA meetings and is now the birthday secretary at their Thursday meeting.

His responsibility is to make sure that there is a birthday cake at that meeting once a month. He has to make sure that he has the coins and cards for the birthday people at the birthday meeting. . . . [the individual] has done a very, very good job at that. He's been very responsible.

TR at 119-120. The AA sponsor stated that he expects the individual to call him at least once a week and discuss his progress with the program. He testified that he has been working on the 12 AA steps with the individual, and that his progress has been exceptional. TR at 121-125.

I would say he's done remarkably well. He calls me more than most of the people I sponsor. We talk about things

at the gut level. I probably know more about [the individual] than members of his own family.

TR at 132-133. He stated that the individual is on course with his recovery and is working the steps.

He's doing what he's supposed to do. If he keeps doing that he'll be fine.

TR at 133. The individual's AA sponsor stated that he is certain that the individual has not relapsed and consumed alcohol since August 2006. TR at 140.

E. The Individual's AA Group Friend

The individual's support group friend testified that he is a marriage and family therapist and an alcoholic with 47 years of sobriety. He stated that he has known the individual for a few years because his wife is a good friend of the individual's wife. TR at 101-102. He testified that in August 2006, the individual began to attend an AA meeting that he attended and that he got to know the individual better. TR at 102. He stated that he has been impressed with the individual's commitment to AA.

In my opinion, he's making a strong effort, he's jumped into it, he's getting to most meetings most days. He's working with a sponsor. I think he told me he's halfway through the steps, or maybe further.

TR at 104. The support group friend stated that the individual has the right attitude of surrender and openness for an effective recovery, and is sincere in his efforts and goals. TR at 105. He stated that the individual's wife is providing good support for his sobriety. He testified that the individual knows that he also is available for sobriety support. TR at 111.

The support group friend stated that he does not see the individual frequently outside of their common AA meeting because they live in different cities, but that they have met and talked privately on a few occasions. TR at 106. Although the individual has not consulted him professionally, the support group friend asserted that on the basis of his observations of the individual at AA meetings and in private discussions, he believed that the individual's current risk of relapse is less than ten percent. He stated that nothing that the individual has said or done leads him to suspect that the individual has consumed alcohol since August 2006.

F. The Individual's Current Supervisor

The individual's current supervisor testified that he has had frequent contact with the individual in the workplace since 1995, and that he has been the individual's supervisor since August 2006. TR at 74, 75. He stated that the individual always has been a professional and talented employee, and that his attendance always has been very good. TR at 75. He stated that the individual has never been alcohol-impaired in the workplace. TR at 77. He testified that he has not seen the individual consume alcohol since his 2006 DUI. He also stated that he is aware of the individual's rehabilitation activities.

I know that he's going to AA. I know that he's embraced the fact that he had a problem and he's trying to correct it. . . . I feel confident that he's going to be a clean and sober individual here for a long time.

TR at 79-80.

G. The Individual's EAP Psychologist

The individual's EAP psychologist testified that the individual approached his employer's EAP in September 2006 and voluntarily agreed to support his recovery with monthly counseling sessions with her and by submitting himself to random workplace testing for drugs and alcohol. TR at 16-17, 36. She has met with the individual on a monthly basis since September 2006. She stated that because he had already completed an outpatient recovery program and was attending AA, she viewed her work with him as being

about monitoring his recovery process and providing additional counseling regarding potential triggers and things like that.

TR at 17. She stated that he now has had four or five random tests for drugs and alcohol in the workplace, all of which have been negative. Tr at 19.

The individual's EAP psychologist stated that she believes that the individual has suffered from significant alcohol abuse in the past and needs to maintain a very active program and sobriety support to reduce his risk of relapse. She stated that she believed that it is essential for him to remain engaged in sobriety support. TR at 20-22.

She testified that she believes that the individual has maintained his sobriety since the August 2006 DUI and that he is very committed to maintaining it by remaining active in AA and by continuing to submit to random drug and alcohol testing in the workplace. TR at 22, 25, 37. She stated that the individual now demonstrates a self-realization of his problem with alcohol.

He truly has taken on a wonderful awareness of what it means to maintain sobriety, knowing that he is at risk for relapse at every moment, . . . realizing that, no, I cannot just have one drink, I can't drink like that, I can't be a social drinker, and so he really seems to get that.

TR at 26.

She stated that he has been able to cope with recent feelings of stress and loss around the death of a cousin and of a co-worker by seeking the support of his wife and by calling his AA sponsor. TR at 35. She testified that although a year of sobriety is generally considered standard for establishing rehabilitation, she believes that the individual has displayed rehabilitation after ten months of sobriety, and that his risk of relapse is low. TR at 37-38.

H. *The Individual's Evaluating Psychologist*

The individual's evaluating psychologist testified that he conducted a two and one-half hour examination of the individual in February 2007 that included a clinical interview and psychological testing. He also reviewed the 1993 and 1997 reports of the DOE-consultant psychiatrist. TR at 190-191. In an April 2007 report, he diagnosed the individual as suffering from alcohol abuse in remission. Individual's Hearing Exhibit 4.

After listening to the hearing testimony of the individual and his other witnesses, the individual's psychologist observed that prior to his August 2006 hospitalization,

he dealt with stress in a dysfunctional way, with alcohol, and now sees that there are techniques learned through various programs . . . and particularly through the 12 steps of AA, that allow him to, in a very healthy way, deal with stress when it comes up, such as the two or three stresses that just happened recently.

TR at 194. He testified that the individual has displayed a consistent and diligent involvement with recovery by thorough

immersion in the 12 step program, by extending his outpatient treatment with weekly after-care meetings, and by seeking counseling from the EAP counselor. He stated that in doing these things, the individual

is demonstrating, through behavior that's consistent month by month since this happened, that he's a different person with a different attitude and showing us that he's determined to make this work.

TR at 195. The individual's evaluating psychologist testified that after ten months of sobriety and rehabilitation activities

I feel professionally, based on what I saw in February and the testimony that I've heard today, that I'm as confident now about his success as I would be two months from now.

TR at 196.

I. The DOE-Consultant Psychiatrist

The DOE-consultant psychiatrist testified after he heard the testimony of the other witnesses at the Hearing. He stated that he evaluated the individual in 1993 and again in 1997, but that he has not met with individual since that time. He testified that he reviewed the April 2007 report of the individual's evaluating psychologist as well as written declarations made by the manager of the individual's outpatient alcohol treatment program (the individual's Hearing Exhibit 1) and by the individual's primary care physician. ^{4/} He stated that based on these evaluations and on the testimony at the Hearing, he believed that the individual's current diagnosis was alcohol abuse. TR at 200.

The DOE-consultant psychiatrist testified that although the individual's period of sobriety was only ten months at the date of the Hearing, he nevertheless has shown adequate evidence of rehabilitation from alcohol abuse. TR at 200. He stated that the testimony indicated that the individual "has taken very proactive steps to maintain his sobriety."

^{4/} The individual's primary care physician stated in his declaration that he had tested the individual's liver enzyme levels in April 2007 and that the results were normal. Individual's Hearing Exhibit 2.

From the testimony that I have heard from seven witnesses here, and these are witnesses that are very credible - his therapist, his wife, his father, a friend who happens to be in the mental health field - I mean this is something we usually do not see in an individual who is recovering from alcoholism. In the ten months that he has been in remission, I believe that the progress he has made has been exceptional.

TR at 201. Based on this exceptional progress, the DOE-consultant psychiatrist stated that he was willing to deviate from the one year standard for rehabilitation and find that the individual was sufficiently rehabilitated after ten months of sobriety. *Id.*

IV. ANALYSIS

The individual believes that his ten months of sobriety, his completion of an outpatient treatment program, his ongoing participation in AA meetings and EAP counseling, and his dedication to future abstinence from alcohol mitigate the Criterion (j) security concern arising from his diagnosis of alcohol abuse and his history of alcohol-related legal problems. For the reasons stated below, I conclude that the individual's arguments and supporting evidence concerning his rehabilitation from alcohol abuse mitigate the DOE's security concerns.

The testimony at the Hearing indicated that the individual has been abstinent from alcohol since August 5, 2006, when he was arrested for DUI. This assertion is supported by the fact that he entered a detoxification program immediately after his arrest, followed by an intensive outpatient treatment program. He has continued to attend weekly after-care meetings through that program, and attends five weekly sessions of AA. Since September 2006, he has voluntarily submitted to random alcohol testing in the workplace and these tests have been negative. He submitted the statement of his family doctor who indicated that the results of an April 2007 liver enzyme test for the individual shows no elevated enzyme levels that would indicate alcohol consumption. Finally, his wife, his father, his AA counselor, his AA group friend, his supervisor and his EAP counselor all testified convincingly that the individual has maintained his sobriety since August 6, 2006. Accordingly, I conclude that the individual has established ten months of sobriety as of the date of the Hearing.

In the administrative review process, it is the Hearing Officer who has the responsibility for forming an opinion as to whether an individual with alcohol problems has exhibited rehabilitation or

reformation. See 10 C.F.R. § 710.27. The DOE does not have a set policy on what constitutes rehabilitation and reformation from alcohol abuse, but instead makes a case-by-case determination based on the available evidence. In making this determination, Hearing Officers properly give a great deal of deference to the expert opinions of psychiatrists and other mental health professionals concerning the probability that an individual will relapse. See, e.g., *Personnel Security Hearing (Case No. VSO-0027)*, 25 DOE ¶ 82,764 (1995) (finding of rehabilitation); *Personnel Security Hearing (Case No. VSO-0015)*, 25 DOE ¶ 82,760 (1995) (finding of no rehabilitation). At the Hearing, the DOE-consultant psychiatrist concluded that the individual has made excellent progress in his recovery, and he indicated that the individual has achieved a relatively low probability of relapsing into problem drinking after ten months of sobriety coupled with an intensive recovery program. This view was shared by the EAP psychologist and the individual's evaluating psychologist.

I agree with the conclusions of the DOE-consultant psychiatrist and the other medical professionals. As discussed above, the testimony and other evidence presented at the Hearing convince me that the individual has maintained his sobriety since August 6, 2006. In addition, the testimony and my positive assessment of the individual's demeanor convince me that he has committed himself to sobriety through ongoing participation in AA meetings and weekly outpatient sessions. In particular, my assessment of the individual leads me to accept the view of the medical professionals that, unlike his past efforts at sobriety, the individual now has internalized an understanding that he cannot consume alcohol, and that he has acquired effective methods for coping with stressful situations without alcohol. In addition, the testimony of his wife, his AA sponsor and the EAP counselor convince me that the individual has established a strong support system for his sobriety. While a full year of abstinence from alcohol generally is viewed as necessary for someone to demonstrate that he is at low risk for relapsing into problem drinking, I accept the view of the three medical professionals in this case that the individual is at low risk for relapse after ten months of sobriety. Accordingly, I conclude that the individual's risk for relapsing into alcohol use is not unacceptably high for someone holding a DOE access authorization, and that it now is appropriate to restore the individual's access authorization.

V. CONCLUSION

For the reasons set forth above, I find that the individual suffers from alcohol abuse subject to Criterion (j). Further, I find that

this derogatory information under Criterion (j) has been mitigated by sufficient evidence of rehabilitation and reformation. Accordingly, after considering all of the relevant information, favorable or unfavorable, in a comprehensive and common-sense manner, I conclude that the individual has demonstrated that granting him access authorization would not endanger the common defense and would be clearly consistent with the national interest. It therefore is my conclusion that the individual's access authorization should be restored. The individual or the DOE may seek review of this Decision by an Appeal Panel under the regulation set forth at 10 C.F.R. § 710.28.

Kent S. Woods
Hearing Officer
Office of Hearings and Appeals

Date: July 27, 2007